

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ SEP 29 2006 ★

P.M. _____
TIME A.M. _____
ORDER

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WILLIAM HEPWORTH,

Plaintiff,

- against -

SUFFOLK COUNTY, SUFFOLK COUNTY
CORRECTION OFFICERS STEVEN
CAMPITELLO and GEORGE CAMPATELLA,
SERGEANT ALLEN, SUFFOLK COUNTY
CORRECTION OFFICERS who worked yards
4 and 5 on the 7am to 3pm tour and yard 1-2-3 on
August 5, 2002,

Defendants.
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2:02-cv-6473-ENV-ETB

VITALIANO, D.J.

On May 5, 2005, defendants moved for summary judgment on two grounds: (i) plaintiff's failure to exhaust administrative remedies; and (ii) plaintiff's failure to state a claim cognizable under 42 U.S.C. § 1983. By order dated April 6, 2006, District Judge Dora Irizarry referred the motion to Magistrate Judge E. Thomas Boyle. On August 1, 2006, Magistrate Judge Boyle issued a report and recommendation recommending that the Court deny defendants' motion for summary judgment. Defendants' have not subsequently filed objections.

When reviewing a magistrate's report and recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings and recommendations . . ." 28 U.S.C. § 636(b)(1)(C). When, as here, no timely objection has been made to the report and recommendation, this Court "need only satisfy itself that there is no clear error on the face of the


record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record, this Court finds Magistrate Boyle’s report and recommendation to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the report and recommendation in its entirety as the opinion of the Court. Accordingly, for the reasons stated therein, defendants’ motion for summary judgment is denied.

Counsel are directed to submit a joint pre-trial order, in accordance with this Court’s individual motion practices and rules, by October 29, 2006. A final pre-trial conference will be held on November 3, 2006 at 11 a.m. in Courtroom #6 of the United States Federal Courthouse, located at 225 Cadman Plaza East, Brooklyn, New York 11201.

SO ORDERED.

Dated: Brooklyn, New York
September 29, 2006



ERIC N. VITALIANO
United States District Judge